

21.24(7) *Vocational school (area college) employees may elect coverage under another retirement system.*

a. Effective July 1, 1990, a person newly entering employment with an area vocational school or area community college may choose to forego IPERS coverage and elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees. This option is available only to those newly hired persons who are already members of the alternative retirement system. Such an election by a newly employed person is irrevocable.

b. Effective July 1, 1994, and providing that the board of directors of the area vocational school or area community college have approved participation in an alternative retirement system pursuant to Iowa Code section 260C.23, a member employed by an area vocational school or an area community college may elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees, in lieu of continuing or commencing contributions to IPERS.

c. Rescinded IAB 7/22/92, effective 7/2/92.

d. Effective July 1, 1994, a person who is employed before that date with an area community college may file a one-time irrevocable election form with IPERS and the employer electing participation in an alternative plan. The election must be postmarked by December 31, 1995. If a person is employed July 1, 1994, or later, the person may file a one-time election with IPERS and the employer electing participation in the alternative plan. The election must be postmarked within 60 days from the date employed. The employee will be a member of IPERS unless an election is filed within the specified time frames. An employee vested with IPERS retains all of the rights of any vested member for as long as the contributions remain with the fund. Members who elect out of IPERS coverage but remain with the same employer are eligible to apply for and receive a refund of their contributions plus interest. Such members may not, however, apply for retirement benefits until attaining the age of 70, or until they terminate employment with all public employers.

21.24(8) *Refunds of service purchase amounts.* A member may request and receive a refund without interest of all or a portion of amounts paid to IPERS to buy back prior service credit or to purchase credit for other service pursuant to Iowa Code chapter 97B. Such refund requests must be made in writing within 60 days after the date of the receipt issued by IPERS to the member for such amounts. Such refunds shall be in increments representing one or more quarters. Notwithstanding the foregoing, no refund shall be made if a member has made a service purchase under this rule and one or more monthly retirement allowance payments have been made thereafter. Furthermore, this subrule shall not limit IPERS' ability to refund service purchase amounts when required in order to meet the provisions of the Internal Revenue Code that apply to IPERS. This subrule shall be effective for refund requests received by IPERS on or after May 3, 1996.

21.24(9) *Leaves of absence.* Service credit for leaves of absence that begin on or after July 1, 1998, may be purchased. The cost of such service purchases shall be calculated in the same manner as provided for buy-ins under subrule 21.24(2) above. In addition, a member must be vested or retired, and must have one calendar year of wages on file in order to make such a purchase.

21.24(10) *Service credit under Iowa Code section 97B.42A(4).* Service credit for periods of time prior to January 1, 1999, when the member was employed in a position for which coverage could have been elected, but was not, may be purchased. The cost of such service purchases shall be calculated in the same manner as provided for buy-ins under subrule 21.24(2) above. In addition, a member must be vested or retired, and must have one calendar year of wages on file in order to make such a purchase. A member shall not be able to purchase service under this rule that was not eligible for optional coverage at the time of the employment.

21.24(11) *IRC Section 415(n) compliance.* Effective for service purchases made on or after January 1, 1998, service purchases made under this rule and other posttax contributions shall not exceed \$30,000 per calendar year. In addition, the amounts contributed for service purchases under this rule shall not exceed the amount required to purchase the service according to the current cost schedules. In implementing these and the other requirements of IRC Section 415(n), IPERS shall use the following procedures.

a. If the member's total benefit at retirement passes the fully reduced IRC Section 415(b) dollar limit test, IPERS shall pay the total benefit.

b. If the member's total benefit at retirement fails the fully reduced IRC Section 415(b) dollar limit test, and the member made one or more service purchases, IPERS shall perform the applicable IRC Section 415 tests, with adjustments for posttax service purchases and other posttax contributions, and pay excess amounts, if any, under a qualified benefits arrangement authorized under Iowa Code section 97B.49I.

c. IPERS shall not permit the purchase of nonqualified service, as defined under IRC Section 415(n), unless such service is specifically authorized by the Iowa legislature. If so authorized, a member must have five years of existing service to make such a purchase, and the quarters of service purchased cannot exceed 20.

d. The limitations of this rule shall not apply to buybacks of prior refunds. In addition, the \$30,000 annual limit under this rule shall not apply to service purchases grandfathered under the provisions of the Iowa Code and Section 1526 of the Taxpayer Relief Act of 1997.

e. If IPERS adopts rules and procedures permitting service to be purchased on a pretax basis, the amounts contributed will not be combined with posttax service purchases and other posttax contributions in applying the foregoing procedures.

f. The provisions of this subrule shall apply to all vested members who have an account balance and retirees.

g. IPERS reserves the right to apply the limitations of IRC Section 415(n) on a case-by-case basis to ensure that such limits are not exceeded.

This rule is intended to implement Iowa Code sections 97B.42, 97B.43, 97B.72A, 97B.73 to 97B.75, and 97B.80.

581—21.25(97B) South Africa restrictions. Rescinded IAB 7/5/95, effective 8/9/95.

581—21.26(97B) Garnishments and income withholding orders. For the limited purposes of this rule, the term "member" includes IPERS members, beneficiaries, contingent annuitants and any other third-party payees to whom IPERS is paying a monthly benefit or a lump sum distribution.

A member's right to any payment from IPERS is not transferable or assignable and is not subject to execution, levy, attachment, garnishment, or other legal process, including bankruptcy or insolvency law, except for the purpose of enforcing child, spousal, or medical support.

Only members receiving payment from IPERS, including monthly benefits and lump sum distributions, may be subject to garnishment, attachment, or execution against funds that are payable. Such garnishment, attachment, or execution is not valid and enforceable for members who have not applied for and been approved to receive funds from IPERS.

Upon receipt of an income withholding order issued by the Iowa department of human services or a court, IPERS shall send a copy of the withholding order to the member. If a garnishment has been issued by a court, the party pursuing the garnishment shall send a notice pursuant to Iowa law to the member against whom the garnishment is issued.

IPERS shall continue to withhold a portion of the member's monthly benefit as specified in the initial withholding order until instructed by the court or the Iowa department of human services issuing the order to amend or cease payment. IPERS shall continue to withhold a portion of the member's monthly benefit as specified in the garnishment until the garnishment expires or is released.

Funds withheld or garnished are taxable to the member. IPERS will assess a fee of \$2 per payment in accordance with Iowa Code section 252D.18(1)“b.” The fee will be deducted from the gross amount, less federal and state income tax, before a distribution is divided.

A garnishment, attachment or execution may not be levied upon funds which are already the subject of a levy, including a levy placed upon funds by the United States Internal Revenue Service, unless the requirements of 26 CFR Section 6334-1(a)(8) are met. Multiple garnishments, attachments and executions are allowed as long as the amount levied upon does not exceed the limitations prescribed in 15 U.S.C. Section 1673(b).

IPERS may release information relating to entitlement to funds to a court or to the Iowa department of human services prior to receipt of a valid garnishment, attachment, execution, or income withholding order when presented with a written request stating the information requested and reasons for the request. This request must be signed by a magistrate, judge, or child support recovery unit director or the director's designee, including an attorney representing the Iowa department of human services. In addition, IPERS may release information to the Iowa department of human services through automated matches.

This rule is intended to implement Iowa Code sections 97B.38 and 97B.39.

581—21.27(97B) Rollovers. If a member who is paid a lump sum distribution, or a beneficiary who is the member's spouse and is paid a lump sum death benefit which qualifies to be rolled over, requests that the taxable portion be rolled over to more than one IRA or other qualified plan, IPERS will assess a \$5 administrative fee for each additional rollover beyond the first one. The fee will be deducted from the gross amount of each distribution, less federal and state income tax. All amounts that would otherwise be eligible for rollover and are paid in the same taxable year shall be aggregated to determine if a distribution equals or exceeds the \$200 minimum rollover amount.

This rule is intended to implement Iowa Code sections 97B.38, 97B.48, 97B.48A, 97B.52, 97B.53, and 97B.53B.

581—21.28(97B) Offsets against amounts payable. IPERS may, with or without consent and upon reasonable proof thereof, offset amounts currently payable to a member or the member's designated beneficiaries, heirs, assigns or other successors in interest by the amount of IPERS benefits paid in error to or on behalf of such member or the member's designated beneficiaries, heirs, assigns or other successors in interest.

This rule is intended to implement Iowa Code sections 97B.4, 97B.15 and 97B.25.

581—21.29(97B) Qualified domestic relations orders. This rule shall apply only to marital property orders. All support orders shall continue to be administered under rule 581—21.26(97B).

21.29(1) Definitions.

“*Alternate payee*” means a spouse or former spouse of a member who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by IPERS with respect to such member. “*Alternate payee*” also refers to persons who are entitled pursuant to a qualified domestic relations order to receive benefits after the death of the original alternate payee.

“Benefits” means, for purposes of this rule and depending on the context, a refund, monthly allowance (including monthly allowance paid as an actuarial equivalent (AE)), or death benefit payable with respect to a member covered under IPERS. *“Benefits”* does not include dividends payable under Iowa Code section 97B.49 or other cost-of-living increases unless specifically provided for in a qualified domestic relations order.

“Domestic relations order” means any judgment, decree, or order which relates to the provision of marital property rights to a spouse or former spouse of a member and is made pursuant to the domestic relations laws of a state.

“Member” means, for purposes of this rule, IPERS members, beneficiaries, and contingent annuitants.

“Qualified domestic relations order” means a domestic relations order which assigns to an alternate payee the right to receive all or a portion of the benefits payable with respect to a member under IPERS and meets the requirements of this rule.

“Trigger event” means a distribution or series of distributions of benefits made with respect to a member.

21.29(2) Requirements.

a. Mandatory provisions. A domestic relations order is a qualified domestic relations order if such order:

- (1) Clearly specifies the name, Social Security number, and last-known mailing address of the member and the name, Social Security number, and last-known mailing address of the alternate payee;
- (2) Clearly specifies a fixed dollar amount or a percentage, but not both, of the member’s benefits to be paid by IPERS to the alternate payee or the manner in which the fixed dollar amount or percentage is to be determined, provided that no such method shall require IPERS to perform present value calculations of the member’s accrued benefit;
- (3) Clearly specifies the period to which such order applies, including whether benefits cease upon the death or remarriage of the alternate payee;
- (4) Clearly specifies that the order applies to IPERS; and
- (5) Clearly specifies that the order is for purposes of making a property division.

b. Prohibited provisions. A domestic relations order is not a qualified domestic relations order if such order:

- (1) Requires IPERS to provide any type or form of benefit or any option not otherwise provided under Iowa Code chapter 97B;
- (2) Requires IPERS to provide increased benefits determined on the basis of actuarial value;
- (3) Requires the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined by IPERS to be a qualified domestic relations order;
- (4) Requires any action by IPERS that is contrary to its governing statutes or plan provisions;
- (5) Awards any future benefit increases that are provided by the legislature, except as provided in 21.29(2) “c”(2); or

- (6) Requires the payment of benefits to an alternate payee prior to a trigger event.

c. Permitted provisions. A qualified domestic relations order may also:

- (1) If a trigger event has not occurred as of the date the order is received by IPERS, name an alternate payee as a designated beneficiary or contingent annuitant, require the payment of benefits under a particular benefit option, or both;

(2) Specify that the alternate payee shall be entitled to a fixed dollar amount or percentage of dividend payments, as follows:

1. If the court order awards a fixed dollar amount of benefits to the alternate payee, the dollar amount of dividend payments to be added or method for determining said dollar amount shall be stated in the court order or an award of a share of dividend payments shall be given no effect; and

2. If the court order awards a specified percentage of benefits to the alternate payee, IPERS shall add dividends to the alternate payee's share of the retirement allowance as necessary to keep the alternate payee's share of payments at the percentage specified in the court order;

(3) Bar a vested member from requesting a refund of the member's accumulated contributions without the alternate payee's written consent; and

(4) Name a successor alternate payee to receive the amounts that would have been payable to the member's spouse or former spouse under the order, if the alternate payee dies before the member. The designation of a successor alternate payee in an order shall be void and be given no effect if the order does not provide the successor's name, Social Security number, and last-known mailing address.

21.29(3) Administrative provisions.

a. Payment to an alternate payee shall be made in a like manner and at the same time that payment is made to the member. Payment to the alternate payee shall be in a lump sum if benefits are paid in a lump sum distribution or as monthly payments if a retirement option is in effect. A member shall not be able to receive an actuarial equivalent (AE) under Iowa Code section 97B.48(1) unless the total benefit payable with respect to that member meets the applicable requirements. All divisions of benefits shall be based on the gross amount of monthly or lump sum benefits payable. Federal and state income taxes shall be deducted from the member's and alternate payee's respective shares and reported under their respective federal tax identification numbers. Unrecovered basis shall be allocated on a pro rata basis to the member and alternate payee.

b. If a domestic relations order does not so provide, the alternate payee shall not be entitled to any portion of the death benefit payable with respect to a member, but the failure to award an alternate payee a share of the member's death benefits in a qualified domestic relations order shall not negate a proper beneficiary designation on file with IPERS.

c. If an alternate payee has been awarded a share of the member's benefits and dies before the member, the entire account value shall be restored to the member unless otherwise specified in the order and in the manner required under this rule.

d. An alternate payee shall not receive a share of dividends or other cost-of-living increases, unless so provided in a qualified domestic relations order.

e. The chief benefits officer, or a designee thereof, shall have exclusive authority to determine whether a domestic relations order is a qualified domestic relations order. A final determination by the chief benefits officer, or a designee thereof, may be appealed in the same manner as any other final agency determination under Iowa Code chapter 97B.

f. A person who attempts to make IPERS a party to a domestic relations action in order to determine an alternate payee's right to receive a portion of the benefits payable to a member shall be liable to IPERS for its costs and attorney's fees.

g. A domestic relations order shall not become effective until it is approved by IPERS. If a member is receiving a retirement allowance at the time a domestic relations order is received by the system, the order shall be effective only with respect to payments made after the order is determined to be a qualified domestic relations order. If the member is not receiving a retirement allowance at the time a domestic relations order is received by IPERS and the member applies for a refund or monthly allowance, or dies, no distributions shall be made until the respective rights of the parties under the domestic relations order are determined by IPERS.

h. IPERS and its staff shall have no liability for making or withholding payments in accordance with the provisions of this rule.

i. Alternate payees must notify IPERS of any change in mailing address. IPERS shall contact the alternate payee in writing at the last-known mailing address on file with IPERS, notifying the alternate payee that an application for a distribution has been received with respect to the member and providing the alternate payee with an application to be completed and returned by the alternate payee. The written notice shall provide that if the alternate payee does not return said application to IPERS within 60 days after such written materials are mailed by IPERS, the amounts otherwise payable to the alternate payee shall be paid to the member or the member's beneficiary(ies) until a valid application is received, and IPERS shall have no liability to the alternate payee with respect to such amounts. IPERS has no duty or responsibility to search for alternate payees. If distributions have already begun at the time that an order determined by IPERS to be a qualified domestic relations order, the qualified domestic relations order shall be deemed to be the alternate payee's application to begin receiving his or her payments under the QDRO.

j. If an alternate payee's application is received less than two weeks before the member's first or next monthly payment is to be made, payments to the alternate payee shall begin the next following month.

k. For both lump sum and monthly payments, the alternate payee's tax withholding and rollover (if eligible) elections must be received not less than two weeks in advance of the alternate payee's first payment, or IPERS will use the applicable default elections.

This rule is intended to implement Iowa Code sections 97B.4, 97B.15 and 97B.39.

581—21.30(97B) Favorable experience dividend under Iowa Code section 97B.49F(2).

21.30(1) Allocation of favorable experience. The department shall annually allocate the system's favorable actuarial experience, if any, between the reserve account created under Iowa Code section 97B.49F(2) and the remainder of the retirement fund according to the following schedule.

<u>Years to Amortize Unfunded Liability</u>	<u>Percentage to FED Reserve</u>
Greater than 0 but less than or equal to 3	50%
Greater than 3 but less than or equal to 6	35%
Greater than 6 but less than or equal to 9	25%
Greater than 9 but less than or equal to 12	15%
Greater than 12 but less than or equal to 15	5%
Greater than 15	0%

The portion of the favorable actuarial experience that is not allocated to the FED reserve as provided above will be retained and used by the system to pay down its unfunded actuarial accrued liability, except as otherwise required by Iowa Code section 97B.49F(2)“c.”

21.30(2) *Determination of applicable percentage.* The department shall have sole discretion to determine the applicable percentages that will be used in calculating favorable experience dividends payable under this rule, if any, subject to the actuary’s certification that the resulting favorable experience dividends meet the requirements of Iowa Code section 97B.49F(2) and this rule.

a. The department’s annual applicable percentage target for calculating dividends under Iowa Code section 97B.49F(2) shall be equal to the applicable percentage used in calculating dividends payable to retirees under Iowa Code section 97B.49F(1). Notwithstanding the foregoing, the department may set a greater or lesser applicable percentage for calculating dividends under this rule depending on the funding adequacy of the reserve account. In no event shall the applicable percentage exceed 3 percent.

b. In determining the annual applicable percentage, the department shall consider, but not be limited to, the value of the reserve account, distributions made from the reserve account in previous years, and the likelihood of future credits to and distributions from the reserve account. The department shall make its annual applicable percentage decisions using at least a rolling five-year period.

c. If for any year the department cannot afford an applicable percentage equal to that payable to retirees under Iowa Code section 97B.49F(1), the department may use applicable percentages in succeeding years that are higher than those used in calculating dividends for retirees under Iowa Code section 97B.49F(1) (but not in excess of 3 percent).

d. An applicable percentage in excess of the applicable percentage declared under Iowa Code section 97B.49F(1) made for catch-up purposes shall not reduce the funding of the reserve account below the amount the system’s actuary determines is necessary to pay the maximum favorable experience dividend for each of the next five years, based on reasonable actuarial assumptions.

21.30(3) *Calculation of FED for individual members and beneficiaries.* A member must be retired for one full year to qualify for a favorable experience dividend. In determining whether a member has been retired one full year, the department shall count the member’s first month of entitlement as the first month of the one-year period. The month in which the favorable experience dividend is payable shall be included in determining whether a member meets the eligibility requirements.

An eligible member’s favorable experience dividend shall be calculated by multiplying the total monthly benefit payments received in the prior calendar year by the number of complete years the member has been retired or would have been retired if living on the date the dividend is payable, and by the applicable percentage set by the department. The number of complete years the member has been retired shall be determined by rounding down to the nearest whole year.

21.30(4) *FED for eligible members and beneficiaries who die before the January distribution date.* If a member or beneficiary receiving monthly payments would have been eligible for a FED distribution in the following January but dies prior to the January distribution date, IPERS will pay a FED to the member’s or beneficiary’s account for the calendar year in which the death occurred. The FED shall be calculated using the monthly payments received in the calendar year the death occurred. A lump sum death benefit shall not constitute a monthly payment for purposes of determining FED eligibility or in making FED calculations.

The FED percentage applied to the monthly payments received in the calendar year of death shall be the most recently declared FED percentage in effect at the time of the FED payment to the member or beneficiary. This subrule shall not be construed to permit a FED distribution to a member where the total monthly benefits received by the member, counting the month of death, is less than 12, even if a period of 12 months has elapsed between the first payment of monthly benefits to the member and the January distribution date.

Notwithstanding the foregoing, if IPERS determines in January of a given year that, based on reasonable actuarial assumptions, there is a reasonable likelihood that a FED will not be declared for the next following January, IPERS may defer paying FED distributions under this subrule until the determination is made. If IPERS subsequently determines that no FED will be declared for a given year, no FED will be payable to persons whose death occurs during the applicable calendar year.

This rule is intended to implement Iowa Code section 97B.49F(2).

[Filed 10/28/75, Notice 9/22/75—published 11/17/75, effective 12/23/75]

[Filed 9/1/77, Notices 7/27/77, Amended Notice 8/10/77—published 9/21/77, effective 10/26/77]*

[Filed 3/15/78, Notice 2/8/78—published 4/5/78, effective 5/10/78]

[Filed 7/19/79, Notice 6/13/79—published 8/8/79, effective 9/12/79]

[Filed 11/19/80, Notice 9/3/80—published 12/10/80, effective 1/14/81]

[Filed 10/8/82, Notice 9/1/82—published 10/27/82, effective 12/2/82]

[Filed 8/9/83, Notice 3/30/83—published 8/31/83, effective 10/5/83]

[Filed 8/24/84, Notice 7/4/84—published 9/12/84, effective 10/17/84]

[Filed 1/11/85, Notice 9/26/84—published 1/30/85, effective 3/6/85]

[Filed 8/30/85, Notice 7/3/85—published 9/25/85, effective 10/30/85]

[Filed 4/17/87, Notice 3/11/87—published 5/6/87, effective 6/10/87]

[Filed 2/18/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]

[Filed emergency 7/1/88—published 7/27/88, effective 7/1/88]

[Filed 9/2/88, Notice 7/27/88—published 9/21/88, effective 10/26/88]

[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 12/22/89]

[Filed 2/1/90, Notice 12/13/89—published 2/21/90, effective 3/30/90]

[Filed emergency 6/27/90—published 7/25/90, effective 7/1/90]

[Filed 8/31/90, Notice 7/25/90—published 9/19/90, effective 10/24/90]

[Filed 2/14/91, Notice 1/9/91—published 3/6/91, effective 4/12/91]

[Filed emergency 7/1/91—published 7/24/91, effective 7/1/91]

[Filed emergency 7/2/92—published 7/22/92, effective 7/2/92]

[Filed 2/10/93, Notice 7/22/92—published 3/3/93, effective 4/7/93]

[Filed 10/22/93, Notice 9/15/93—published 11/10/93, effective 12/15/93]

[Filed emergency 3/16/95—published 4/12/95, effective 3/16/95]

[Filed 6/16/95, Notice 5/10/95—published 7/5/95, effective 8/9/95]

[Filed emergency 8/7/95 after Notice 6/21/95—published 8/30/95, effective 8/9/95]

*Effective date of subrule 8.5(1) delayed by the Administrative Rules Review Committee 70 days from 10/26/77.

[Filed emergency 5/3/96—published 5/22/96, effective 5/3/96]
[Filed emergency 7/26/96—published 8/14/96, effective 7/26/96]
[Filed emergency 11/27/96—published 12/18/96, effective 11/27/96]
[Filed 2/20/97, Notice 8/14/96—published 3/12/97, effective 4/16/97]
[Filed 2/20/97, Notice 12/18/96—published 3/12/97, effective 4/16/97]
[Filed emergency 8/4/97—published 8/27/97, effective 8/4/97]
[Filed 10/31/97, Notice 8/27/97—published 11/19/97, effective 12/24/97]
[Filed emergency 6/11/98—published 7/1/98, effective 6/11/98]
[Filed 9/17/98, Notice 7/1/98—published 10/7/98, effective 11/11/98]
[Filed emergency 11/25/98—published 12/16/98, effective 11/25/98]
[Filed 4/29/99, Notice 12/16/98—published 5/19/99, effective 6/23/99]
[Filed 5/14/99, Notice 3/10/99—published 6/2/99, effective 7/7/99]
[Filed emergency 6/11/99—published 6/30/99, effective 6/11/99]